

STATE OF MICHIGAN
COURT OF APPEALS

MERVAT SABRY HASSAN,

UNPUBLISHED

Plaintiff-Appellee,

v

No. 187946

St. Clair Circuit Court

AHMED A. HASSAN, a/k/a DR. AHMED A.
HASSAN,

LC No. 91-001168-DM

Defendant-Appellant.

MERVAT SABRY HASSAN,

Plaintiff-Appellant,

v

No. 189458

St. Clair Circuit Court

AHMED A. HASSAN,

LC No. 91-001168-DM

Defendant-Appellee.

Before: Jansen, P.J., and Young and R.I. Cooper*, JJ.

YOUNG, J. (concurring).

I concur fully in parts I-III and V of the majority's opinion. In part IV, however, the majority concludes that defendant's medical practice and the buildings were not sold at fair market value. While I agree that this sale must be revisited by the trial court, I cannot agree that this record provides a basis for this Court's fact-based conclusion that the sale was made at other than fair market value. Rather, I write separately with respect to part IV to state that I believe that the trial judge's decision with respect to the sale of defendant's practice and the buildings should be reversed on different grounds.

* Circuit judge, sitting on the Court of Appeals by assignment.

This Court has held that, where a fiduciary has engaged in bad faith, unfair dealings or conflicts of interest, the sale of trust property by the trustee must be assessed in accordance with the exacting three-part test announced in *In re Green Charitable Trust*, 172 Mich App 298; 431 NW2d 492 (1988). See *In the Matter of Harold S Ansell Trust*, 224 Mich App 745, 748; ___ NW2d ___ (1997). Likewise in the instant case, because the trial court found that defendant engaged in a pattern of self-dealing in violation of the limited partnership agreement, in determining whether defendant obtained a fair price for the two buildings, I believe that the test from *Green* is applicable.

Because there is no indication that the issues presented in Docket No. 189458 relating to the sale of the buildings were assessed under the correct legal standard, I believe that it is necessary to remand the case to the trial court for reconsideration of those issues.

/s/ Robert P. Young, Jr.